

**ANDOVER CONSERVATION COMMISSION MEETING MINUTES**  
**MAY 20, 2104**

Town of Andover  
36 Bartlet Street  
3rd Floor Conference Room  
7:45pm

**Conservation Members in Attendance:**

Chairman Donald Cooper, Vice Chairman Michael Walsh, Commissioner Kevin Porter, Commissioner Alix Driscoll, Commissioner Phil Sutherland, Commissioner Jon Honea and Commissioner Floyd Greenwood. Staff members present were Robert Douglas, Director of Conservation and Linda Cleary, Conservation Agent.

**SCHEDULED ITEMS:**

**10 Black Horse Lane**

**Present in Interest: David Feld**

*Staff Recommendation: Approve as Pos.2B, and Neg.3*

Public Hearing on a Request for Determination of Applicability filed by David Feld under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed installation of a privacy fence at **10 Black Horse Lane**.

Mr. Douglas presented this to the Commission. The filing is under the WPA and By-Law. The fence meets the setback requirement under the By-Law. A portion of the fencing will be a picket fence to allow wildlife movement. The privacy fence does not impose a significant barrier to wildlife movements.

Chairman Cooper asked for a more descriptive plan to be provided by the Applicant.

Chairman Cooper asked for a Motion. Vice Chairman Walsh made a Motion to approve as Pos. 2B and Neg.3 with a more descriptive plan; it was seconded by Commissioner Driscoll and unanimously approved.

**1 Prides Circle**

**Present in Interest: Maureen Hanley, Chuck Haines and Kellie Capachietti**

*Staff Recommendation: Continue*

Public Meeting on a Request for Determination of Applicability filed by Kellie Capachietti under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover

Wetlands Protection By-law, Article XIV, for proposed razing of an existing dwelling and driveway to construct a new single family dwelling, associated grading and utilities within 100 feet of a BVW at **1 Prides Circle**.

Agent Cleary presented this to the Commission. The filing is under the WPA and By-Law. The delineation presented was reviewed by staff in 1997. The wetland is upgradient of the site, however an accurate delineation should be done to ensure correct offsets as the wetland is now substantially disturbed from development. There is no wetland flagging on site. The proposed plan does not show a proposed tree line or lawn area.

Maureen Hanley presented the project for the Applicant. She presented to the Commission that the wetland line was done under a Superceding Order of Conditions which has been extended and is still valid. She believes a new delineation will not have an effect on the proposed work. Vice Chairman Walsh asked if staff believed the wetland line had significantly changed. The site is historically disturbed and it is reasonable to think the wetland line had changed in the past 17 years.

Chuck Haines, an abutter, stated that he supported the project and the wetlands are on the other side of the street.

Chairman Cooper agreed with staff that a delineation should be done and also asked if the tree line could be added to the plan.

Maureen Hanley agreed to sign a waiver of the 21 day issuance for the Determination of Applicability and to provide staff with a revised plan showing the tree line and new wetland line.

Chairman Cooper asked for a Motion. Vice Chairman Walsh made a Motion to approve upon receipt of plan with tree line and confirmed wetland line; it was seconded by Commissioner Driscoll and unanimously approved.

## **15 Webster Street**

### **Present in Interest: Tony Brock-Fisher**

*Staff Recommendation: Approve as Pos.2b and Neg.3.*

Public Hearing on a Request for Determination of Applicability filed by Tony Brock-Fisher under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed upgrade of an existing septic system at **15 Webster Street**.

Agent Cleary presented this to the Commission. The filing is under the WPA only for a replacement septic system. The Commission approved an addition, deck and garage as depicted on the plan under DA2013-041. Staff is not ruling on the wetland boundaries as boundaries were ruled on under DA2013-041 with the installation of bounds for the non-disturb line.

Chairman Cooper asked for a Motion. Commissioner Honea made a Motion to approve as Pos.2b, and Neg.3; it was seconded by Commissioner Driscoll and unanimously approved.

### **3 Ballardvale Road**

**Present in Interest: Gregory Famiglietti**

*Staff Recommendation: Approve as Pos.2b and Neg.3.*

Public Hearing on a Request for Determination of Applicability filed by Gregory Famiglietti under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed extension of an existing deck and new stairway at **3 Ballardvale Road**.

Mr. Douglas presented this to the Commission. The project is the rehabilitation of an existing deck with a slight enlargement. This is considered a backyard project. All work is 40 feet away from the wetland and the deck will run parallel with the wetland. The proposed project will be no closer than the existing deck.

Commissioner Driscoll requested the Applicant provide a plan depicting a better clarification of the location of the deck.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to Approve as Pos.2b and Neg.3 with the addendum of adding the labeling; it was seconded by Commissioner Sutherland and unanimously approved.

### **177 High Plain Road**

**Present in Interest: Jennifer DiFrancesco**

*Staff Recommendation: Approve as Pos.2b and Neg.3.*

Public Hearing on a Request for Determination of Applicability filed by Jennifer DiFrancesco under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed construction of an addition at **177 High Plain Road**.

Mr. Douglas presented this to the Commission. The addition meets our setback requirements in the Watershed Overlay Protection District, which is 75 feet. Sedimentation controls are marked.

Chairman Cooper asked for a Motion. Vice Chairman Walsh made a Motion to Approve as Pos.2b and Neg.3; it was seconded by Commissioner Driscoll and unanimously approved.

## **5 Mercury Circle**

*Staff Recommendation: Continue.*

Public Hearing on a Request for Determination of Applicability filed by Katie Wallace under the Massachusetts Wetlands Protection Act, and/or Andover Wetlands Protection By-Law for the proposed construction of an arch bridge and trail at **5 Mercury Circle**.

Mr. Douglas presented this to the Commission. Project is similar to our trail type project done by Eagle Scouts or the biking project bridge which is ¼ mile away that crosses Fish Brook on AVIS property. The proposed bridge will not significantly alter the resource area. Staff contacted DPW, who did not reply as well as DEP. DEP's opinion was that as long as there is no dredging or filling and a small amount of alteration, the RDA filing was appropriate. The size of the bridge and amount of alteration would move it to a NOI filing.

Vice Chairman Walsh asked the advantage of asking for a NOI filing. A more detailed plan would have to be filed.

Commissioner Greenwood disagreed that this was not similar to a scout project because this is on private property for private use, there is no public benefit. He also would like DPW to reply since this project directly involves the water supply.

Commissioner Porter requested exact building plans for the footings of the bridge, etc.

Staff to inform Applicant that the Commission is requesting information on the following:

1. 15 square feet or less of impact;
2. The bridge to be built on site or brought in with heavy equipment;
3. How close can the footings be to the bank
4. No concrete to be used;
5. Bridge not be built in the river.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to continue to June 3, 2014; it was seconded by Commissioner Sutherland and unanimously approved.

## **18 Red Spring Road**

**Present in Interest: Bill MacLeod, Dennis Griecchi and Ellen Keller**

*Staff Recommendation: Continue to date uncertain.*

Public Hearing on a Notice of Intent filed by Dundee Red Spring, LLC under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for proposed renovation of an existing historic mill building site for a proposed commercial mixed use facility consisting of office, retail and restaurant space at **18 Red Spring Road**.

Mr. Douglas presented this to the Commission. This project consists of the conversion of a mill building to a new use. Under the WPA renovation of historic buildings is allowed.

Mr. MacLeod presented the project to the Commission. The existing barn and parking lot would be removed with a new parking lot constructed with the same amount of impervious area removed. Stormwater infiltration with a pre-treatment will be utilized as well as replacing the existing sewer lines and the lawn area it to remain. There are substantial environmental improvements being done to this property. The Applicant will need a waiver for the proposed parking lot not meeting the 50 foot setback, however this is the most efficient placement and the number of required parking spaces is being met with minimum pavement in the flood zone. Flood storage will remain the same post construction as it is pre-construction. The Applicant has met the standard with improving the existing stormwater management.

Staff recommended Janet Bernardo conduct a peer review as to what is being taken out in comparison to what is being put in.

Commissioner Driscoll asked if the Historical Commission enacted a demolition delay for 1 year and asked for their comments.

Commissioner Greenwood suggested a site visit.

Andy Menezes informed the Commission that the Shawsheen River Greenway Group was reforming to create a greenway to allow people to see the River.

A site visit was scheduled for May 28, 2014 at 8:15am.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to continue to a date uncertain; it was seconded by Commissioner Porter and unanimously approved.

## **15 County Road**

**Present in Interest: Bill MacLeod and Dennis Griecci**

*Staff Recommendation: Close the Public Hearing.*

Continued Public Hearing on a Notice of Intent filed by South Andover Development, LLC under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for proposed construction of a new single family dwelling with driveway, grading and utilities within the Riverfront at **15 County Road**.

Agent Cleary presented this to the Commission. The site visit was conducted and the filing is complete under the WPA and By-Law and meets associated regulatory standards pursuant thereunder. The inner riparian zone is improved over existing conditions; and white pine trees have been changed to cedar for replication plantings. The proposed planting of trees should be 2 ½ inches to 3 inches in caliper and shrubs at least 24 inches high. The replication area will be monitored for 2 years or until sufficient growth is established. The replication work shall be done prior to the commencement of work. Staff recommends that the existing fencing be removed and the shed and that a conservation seed mix be applied to the exposed areas.

The applicant continues to have 2 open applications. No work can commence on this project until a Certificate of Compliance is issued for DEP File No. 090-1185.

Mr. MacLeod inquired if the replication can proceed with the construction as soon as possible. Staff agreed.

Chairman Cooper asked for a Motion. Commissioner Porter made a Motion to close the public hearing and issue the Order of Conditions at the June 3, 2014 meeting; it was seconded by Commissioner Sutherland and unanimously approved.

### **85 Porter Road**

**Present in Interest: Brian Charron and John Dick**

*Staff Recommendation: Close the Public Hearing.*

Continued Public Hearing on a Notice of Intent filed by Brian Charron under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for proposed reconstruction of an existing dwelling and removal of existing pool at **85 Porter Road**.

Mr. Douglas presented this to the Commission. The most recent plan submitted has the house relocated further from the vernal pool and wetlands with a large area of mitigation upon removal of the existing pool. The area is previously disturbed and the developed area will be further away and the 25 foot no disturb zone will be reestablished. The pool was built right up to the resource area. The pool will be filled in and the hardscape removed and replaced with mitigation plantings and a narrow strip of lawn. The deck is smaller and now meets the 50 foot no-build setback. Staff believes the vernal pool will continue to exist after the construction of the dwelling.

The Waivers being requested are:

1. Vernal pool setback no met, 51 feet away, not 75;
2. 1300 square feet are within 100 foot no-build;
3. Driveway within 100 foot no-build.

Commissioner Porter made a Motion to Approve the waivers; it was seconded by Commissioner Honea. Motion passed 5-2 with 5 approved and 2 opposed.

Commissioner Honea requested no use of pesticides or fertilizers on the lawn areas.

Chairman Cooper asked for a Motion. Commissioner Porter made a Motion to close the public hearing and issue the Order of Condition at the June 3, 2014 Meeting; it was seconded by Commissioner Greenwood and unanimously approved.

## **87 Porter Road**

**Present in Interest: Brian Charron and John Dick**

*Staff Recommendation: Close the Public Hearing.*

Continued Public Hearing on a Notice of Intent filed by Brian Charron under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, § 40 and/or the Andover Wetlands Protection By-law, Article XIV, for proposed construction of an addition at **87 Porter Road**.

Mr. Douglas presented this to the Commission. The latest plan received shows the same house footprint, shape and size. The deck has been reduced in size, but a portion remains within the no build zone due to 2 existing doors that are used to access the home and then the full deck is outside the 50 foot no build zone. The deck is a pervious area with stone underneath. The garage remains 22 feet from the resource area.

There will be 2245 square feet of mitigation on the other side of the intermittent stream. The area will become lawn area and 33 plantings will be done to connect the vernal pool to the wetland area.

Waivers are requested for:

1. Garage corner 74 feet from vernal pool;
2. 300 square feet of new driveway within 100 feet of the vernal pool.

Commissioner Driscoll recommended adding permeable pavers for the entire driveway.

Chairman Cooper asked for a Motion. Commissioner Honea made a Motion to close the public hearing; it was seconded by Commissioner Sutherland and unanimously approved.

Commissioner Greenwood made a Motion to use permeable pavers for the entire driveway; it was seconded by Commissioner Driscoll and failed with 5 opposed.

Commissioner Driscoll made a Motion for the use of permeable pavers for the additional 300 square of driveway to be added; Commissioner Greenwood seconded the Motion and it was approved by a 5-2 vote with 2 opposed.

Commissioner Driscoll made a Motion to approve the waiver requests; it was seconded by Commissioner Sutherland and unanimously approved.

## **ACTION ITEMS:**

### **12 Tiffany Lane**

*Staff Recommendation: Issue Order of Conditions*

Issuance of Order of Conditions.

Commissioner Driscoll made a Motion to issue the Order of Conditions; it was seconded by Commissioner Sutherland and unanimously approved.

### **15 Stevens Street**

**Present in Interest: Paul Finger**

*Staff Recommendation: Approve*

Request for Finding of Significance for work associated with the addition of a stair tower and vestibule for the interior renovations.

Commissioner Sutherland made a Motion to Approve the change as insignificant; it was seconded by Commissioner Honea and unanimously approved.

## **CONSENT AGENDA:**

### **Minutes**

Approval of minutes from April 29, 2104.

### **4 Crystal Circle**

Rescind Enforcement Order and Issuance of a Satisfactory Completion of Work Certificate

Commissioner Sutherland made a Motion to Approve the Consent Agenda; it was seconded by Commissioner Honea and unanimously approved.

## **LATE/DISCUSSION ITEMS THAT MAY REQUIRE A VOTE:**

### **Legends Condominium**

**Present in Interest: Don Borenstein**

Vote to accept Amended Conservation Restriction and sign Amended Conservation Restriction.

Commissioner Sutherland made a Motion to accept and sign the Amended Conservation Restriction; it was seconded by Commissioner Greenwood and unanimously approved.

### **Nature Force Project**

**Present in Interest: Maria Cotner and Robert DeCelle**

Information regarding environmental group for middle school students to replant flowers along trail heads and promote environmental awareness.



Commissioner Honea suggested replanting native plants not just flowers as they are a learning tool and will improve the trails.

Commissioner Driscoll made a Motion to Approve the project; it was seconded by Commissioner Honea and unanimously approved.

### **2014 Deer Hunt**

Continued to June 3, 2014

### **278R High Plain Road**

Vote to authorize land swap at 278R High Plain Road.

Commissioner Porter made a Motion to authorize the land swap; it was seconded by Commissioner Driscoll and unanimously approved.

### **397 Lowell Street**

Ratification of an Emergency Certification of breach of a beaver dam.

Commissioner Driscoll made a Motion to Approve; it was seconded by Commissioner Sutherland and unanimously approved.

**The next meeting will be held June 3, 2014 at 7:45pm.**

**The meeting was adjourned at 10:05 pm by Motion of Commissioner Honea and seconded by Commissioner Driscoll and unanimously approved.**

**Respectfully submitted by,**

**Lynn Viselli,  
Recording Secretary**